

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

MYRTIS PAULO HART,

Plaintiff,

v.

No. 19-cv-766 JB-KBM

MARK GALLEGOS,

Defendant.

**ORDER GRANTING IN FORMA PAUPERIS  
MOTION BUT REQUIRING PETITIONER TO SHOW CAUSE**

This matter comes before the Court on Myrtis Paulo Hart's Motion for Leave to Proceed In Forma Pauperis (Doc. 5) and his failure to provide an updated address. As to the Motion, Hart's financial affidavit reflects that he lacked sufficient funds to prepay the \$5.00 filing fee in this 28 U.S.C. § 2254 action. After filing the Motion, Hart paid the \$5.00 fee. (Doc. 9). Since *in forma pauperis* relief only excuses prepayment of the fee, but does not excuse the payment obligation entirely, the Court will grant the Motion. See 28 U.S.C. § 1915(a). Hart is not entitled to a refund of the filing fee, but the Court excuses his failure to prepay the fee at the time of filing.

As to the address issue, the docket reflects two recent mailings to Hart were returned as undeliverable with the notation "Return to Sender; Addressee Not Here." (Docs. 11, 12). It appears Hart severed contact without advising the Court of his new address, as required by D.N.M. LR-Civ. 83.6. The Court will require Hart to notify the Clerk of his new address within thirty (30) days of entry of this Order or show cause why this action should not be dismissed without prejudice. See *Bradenburg v. Beaman*, 632 F.2d 120, 122 (10th Cir. 1980) ("It is incumbent on litigants, even those proceeding *pro se*, to follow the federal rules of procedure .... The same is true of simple, nonburdensome local rules....") (citations omitted). Failure to timely comply will

result in dismissal of this action without further notice.

**IT IS ORDERED** that the Motion for Leave to Proceed In Forma Pauperis (Doc. 5) is **GRANTED**; and the failure to prepay the filing fee is excused.

**IT IS FURTHER ORDERED** that within thirty (30) days of entry of this Order, Hart shall update his address or show cause why this action should not be dismissed.

  
UNITED STATES MAGISTRATE JUDGE